

REMARKS/ARGUMENTS

The present Reply is being filed in response to the non-final Official Action of February 15, 2011, the Examiner having reopened prosecution following Applicant's Appeal Brief of December 2, 2010. Claims 16-31 and 36-46 are pending and under consideration. Claims 1-13, 32 and 33 are pending but withdrawn; and the remaining claims, namely Claims 14, 15, 34 and 35, have been cancelled.

The Official Action rejects Claims 27 and 31 under 35 U.S.C. § 102(b) as being anticipated by European Patent Application Publication No. EP0975109 to Suzuki. The Official Action rejects Claims 28 and 44 under 35 U.S.C. § 103(a) as being unpatentable over Suzuki, in view of U.S. Patent Application Publication No. 2008/0077966 to Arques. Finally, the Official Action rejects Claims 16-26, 29, 30, 36-43, 45 and 46 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,452,644 to Shimakawa et al., in view of Suzuki, and further in view of Arques, alone or even further in view of PCT Patent Application Publication No. WO03/065650 to Bons, U.S. Patent No. 7,698,568 to Alve, U.S. Patent No. 7,167,895 to Connelly or U.S. Patent Application Publication No. 2002/0021809 to Salo. As explained below, Applicant respectfully submits that the claimed invention is patentably distinct from Suzuki, and that at least Arques and Alve may not support the rejections for which they are cited. In view of the remarks presented below, Applicant requests reconsideration and allowance of all of the pending claims of the present application.

A. Claims 27 and 31 are Patentable

The Official Action rejects Claims 27 and 31 as being anticipated by Suzuki. Independent Claims 27 and 31 in variably recite causing transmission time information to be requested for conditional access messages to be transmitted in the future, receiving the transmission time information, and selectively turning on a receiver to receive the messages at a time that substantially coincides with the future conditional access message transmission time.

The Examiner appears to argue that turning on a receiver to receive conditional access messages and other data at a designated time, as allegedly disclosed by Suzuki, constitutes "causing transmission time information to be requested," as per Claims 27 and 31. Applicant

respectfully disagrees, however, and submits that it is not reasonable to consider switching on a receiver to read as constituting causing information to be requested. To request transmission time information, some type of two-way communications means is required. Suzuki only discloses a receiver, and turning it on cannot be considered a request for any information.

Applicant therefore respectfully submits that Claims 27 and 31 are patentably distinct from Suzuki; and accordingly, Applicant respectfully submits that the rejection of Claims 27 and 31 as being anticipated by Suzuki is overcome.

B. Claims 28 and 44 are Patentable

The Official Action rejects Claims 28 and 44 as being unpatentable over Suzuki, in view of Arques. The present application is a U.S. national-phase application of a PCT patent application filed February 22, 2005, and in turn, claims priority to a GB patent application filed March 10, 2004. Applicant filed a certified copy of the GB patent application with the Patent Office September 6, 2006. The claims of the present application are supported by GB patent application under 35 U.S.C. § 112. Relative to independent Claim 27 (and similarly Claim 31), for example, the GB patent application discloses an apparatus including a processor and a memory storing executable instructions that in response to execution by the processor cause the apparatus to at least perform a number of operations. These operations include causing transmission time information to be requested for conditional access messages to be transmitted in the future, receiving the transmission time information, and selectively turning on a receiver to receive the messages at a time that substantially coincides with the future conditional access message transmission time. *See, e.g.*, GB Patent Application No. 0405422.7, p. 4, ll. 23-29; And relative to independent Claim 28 (and similarly Claim 44), for example, the GB patent application further discloses that the conditional access messages comprise entitlement management messages. *See, e.g., id.* at p. 3, ll. 11.

Arques is a U.S. national-phase application of a PCT patent application filed December 6, 2004, and in turn, claims priority to a EP patent application filed December 10, 2003. Arques was not published before the invention of the present application, or more than one year before the present application was filed on February 22, 2005. Arques therefore does not qualify as

prior art under 35 U.S.C. §§ 102(a), 102(b). For purposes of 35 U.S.C. § 102(e), Applicant notes that Arques has a relevant date of December 6, 2004, as its foreign priority application (filed December 10, 2003) may not be used as a § 102(e) date for prior art purposes. *See* MPEP § 706.02(f)(1) I.(D); and *see id.* at § 2136.03.

Under the present circumstances, the Applicant submits that the present application has a foreign priority date that antedates the § 102(e) date of Arques. And therefore, in accordance with MPEP 706.02(b), Arques is disqualified as prior art against the claims of the present application. *See also id.* at § 2316.05.

For at least the foregoing reasons, Applicant respectfully submits that the rejection of Claims 28 and 44 as being unpatentable over Suzuki, in view of Arques is overcome.

C. Claims 16-26, 29, 30, 36-43, 45 and 46 are Patentable

The Official Action rejects Claims 16-26, 29, 30, 36-43, 45 and 46 as being unpatentable over Shimakawa in view of Suzuki and Arques, alone or even further in view of Bons, Alve, Connelly or Salo. As explained above, however, Arques is disqualified as prior art against the claims of the present application. Applicant also respectfully submits that Alve is disqualified as prior art to support a rejection of the claims under 35 U.S.C. 103(a). Even further, Applicant respectfully submits that the claimed invention is patentable over Shimakawa in view of Suzuki, alone or even further in view of Bons, Connelly or Salo.

I. Alve

Alve published on April 13, 2010, after the filing date of the present application (i.e., February 22, 2005). Pursuant to 35 U.S.C. §103(c), for applications filed after November 29, 1999, such as the present application, references that qualify as prior art under 35 U.S.C. §102(e), (f) or (g) cannot properly be cited to support an obviousness rejection if the subject matter of the reference and the pending application were commonly owned at the time of the invention. In the instant case, the subject matter of Alve was commonly owned at the time of the invention of the subject matter of the present application. In this regard, the present application and Alve are assigned to Nokia Corporation as evidenced by (a) the assignment for the present

application recorded on June 13, 2007, at Reel 019424, Frame 0847, and (b) the assignment for Alve recorded on January 7, 2005, at Reel 016129, Frame 0848. As such, Alve cannot properly be cited in support of an obviousness rejection of the claimed invention under 35 U.S.C. § 103.

2. *Shimakawa in view of Suzuki, alone or even further in view of Bons, Connelly or Salo*

Notwithstanding the foregoing, Applicant respectfully submits that the claimed invention is patentable over Shimakawa in view of Suzuki, alone or even further in view of Bons, Connelly or Salo. Relative to independent Claims 16, 24 and 26, Applicant notes that the claims were previously rejected over Shimakawa in view of Bons. Shimakawa discloses a broadcast system comprising a receiver configured to receive an electronic programming guide (EPG) and information about when the next EPG will be sent. Bons was, and Suzuki is now, only cited for disclosing EMM messages, which the Official Action argues would have made an obvious modification of Shimakawa.

As previously explained, it would not have been obvious to combine Shimakawa and Bons since Shimakawa discloses EPG messages, which are very different from EMM messages and are used in a completely different way. For similar reasons, Applicant now submits that it would not have been obvious to combine Shimakawa and Suzuki. As previously explained, EPG messages (Shimakawa) include information to be viewed by a subscriber whereas EMM messages (Suzuki) include information that is never seen by a subscriber but that is used by the system to work out whether the necessary subscriptions are in place to access a broadcast or information required to decrypt the broadcast content. Shimakawa discloses that the time information can also specify when other types of data, such as weather forecasts, news or stock prices, will be sent. However, the other types of data are also all meant to be viewed by the subscriber and are all very different to EMM messages (Suzuki). As such, one skilled in the art would not look to Suzuki to modify the communication of the EPGs and the other types of data in Shimakawa.

Moreover, it is not clear from the Official Action exactly how Shimakawa and Suzuki would be combined. It would be unreasonable to replace the EPG messages (Shimakawa) with

EMM messages (Suzuki) since the EPG messages are needed to provide the user with a guide to future television programmes. Alternatively, if Shimakawa was modified to have EMM messages as well, the combination would not result in the (EMM) control messages including transmission time information as recited by the claims. Suzuki does not disclose that the time information is included in the control messages. Moreover, by definition, EPG messages include the transmission times of future data. Just because Shimakawa discloses that the clock time at which the next transmission will take place is included in the transmission of EPG, the disclosure would not teach or suggest to one skilled in the art to include, in the EMM messages, information about the transmission time for future control messages.

Even further, regarding Claims 36, 37 and 43, Applicant has already argued why their additional features are not disclosed by Bons, but the Official Action continues to make the same arguments without having addressed Applicant's previous arguments. Bons discloses including a field (EMM_XID) in the EMM message that will enable the terminal to identify the logical channel on which the EMM is transmitted. Bons discloses that a logical channel is a sub-part of a stream identified by a PID in the broadcast signal and consequently it is clearly not the same as the bearer, the network or the operator providing the control messages. Additionally, the EMM_XID is the logical channel of the current EMM and not a transmission parameter for control messages to be transmitted in the future.

For at least the foregoing reasons, Applicant respectfully submits that the rejections of Claims 16-26, 29, 30, 36-43, 45 and 46 as being unpatentable over Shimakawa in view of Suzuki and Arques, alone or even further in view of Bons, Alve, Connelly or Salo, are overcome.

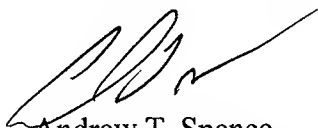
Application No.: 10/598,627
Amendment Dated June 15, 2011
Reply to Official Action of February 15, 2011

CONCLUSION

In view of the remarks presented herein, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111
LEGAL02/32667809v1

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON JUNE 15, 2011.